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CONCORD, N.H.

1953

April 15

Mr. Winfield J. Phillips,
Bank Commissioner,
State House
Concord, New Hampshire

Dear Mr. Phillips:

You have received an inquiry from Roger M. Mara, Manager, Hillsborough Finance Company, Inc., as to the authority of a small loan company, where legal action is required, (1) to collect the balance on a small loan account; (2) to collect interest on a small loan account; and (3) to collect any legal charges which might be incurred in making this collection.

In my opinion a small loan company is authorized to collect the balance plus interest on a small loan account, s. 15, c. 319, R.L., but is not authorized to collect legal charges incurred in making a collection. Permissible fees and charges are expressly set forth in c. 319, R.L. S. 17 provides that in addition to interest on loans not exceeding \$50.00 an inspection fee of \$1.00 may be charged, and on loans of \$50.00 but not exceeding \$300.00 an inspection fee of \$2.00 may be charged. In addition, s. 20, c. 319, R.L. provides that no charge for examination, service, "or other thing, or otherwise" shall be made or contracted for except certain licensing or recording fees. In addition to an express recital of the charges which might legally be made by a small loan company, there is an express prohibition as to any other charges in s. 21, c. 319, R.L., to wit:

"If interest or charges in excess of those permitted by this chapter shall be charged, contracted for, or received the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, interest, or charges."

SS. 22 and 23, c. 319, R.L., elaborate upon the express prohibition and establish legal rights and remedies of

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parties to contracts or undertakings in which the charges exceed those authorized by c. 319, R.L.

In the event that a small loan company should prevail in its claim, the assessment of costs, as in the case of any other litigant, would be made pursuant to rules of Court and applicable statutes of this state.

Very truly yours,

John M. Hassikas
Deputy Attorney General

JMH:ED